



REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 14-15 and 18-35 are currently pending.

Claims 14-15 and 18-35 were examined. Claims 14, 19-22, 25-30, 32, 33 and 35 were rejected. Claims 15, 23, 24, 31 and 34 were objected to as being dependent upon a rejected base claim, but were indicated to contain allowable subject matter.

Applicants respectfully request reconsideration of the application in view of the remarks made herein.

No new matter has been added.

The Office Action

In the Official Action of February 9, 2005, claims 14, 19-22, 25-30 32-33 and 35 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Pelta (U.S. Patent No. 4,971,037). The Examiner asserted that Pelta discloses a mechanism 24 connecting first and second arms 26, 28, and that mechanism 24 is configured to allow the arms to move away from each other and allow one of the arms to rotate about the mechanism and move in an upward direction with respect to the other blade. Applicants respectfully disagree with this interpretation of Pelta. Referring to Fig. 4, Applicants note that clamp 24 has a pair of rectangular openings 72 and 74 which receive the short end sections of wishbone arms 26 and 28 (see also column 4, lines 1-5). Tightening of clamping screw 54 tightens the clamp simultaneously on both wishbone arms. Sections 44 of the wishbone arms that are received in rectangular openings 72 and 74, respectively, have flat surfaces on top and bottom sides which cooperate with rectangular openings 72 and 74 to prevent rotation of arms 26, 28 relative to clamp 24, as well as relative to each other (see column 3, lines 30-36). Accordingly, wishbone arms 26, 28 can neither move away from each other, nor move vertically with respect to one another, contrary to the Examiner's indications, since both are clamped securely with respect to clamp 24 and thereby prevented from movement relative to one another.

Although clamp 24 in an unlocked position is capable of rotating with respect to rod 22, arms 26 and 28 then rotate in unison with clamp 24. Clamp 24 is not configured to allow any relative movement of one arm 26 relative to the other 28.

In view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 14, 19-22, 25-30 32-33 and 35 under 35 U.S.C. Section 102(b) as being anticipated by Pelta (U.S. Patent No. 4,971,037), as being clearly inappropriate.

Claim 18 was rejected under 35 U.S.C. Section 103(a) as being unpatentable over Pelta (U.S. Patent No. 4,971,037). The Examiner admitted that Pelta et al. does not disclose a blade including a plurality of fingers, but indicated that it would have been obvious to employ a plurality of fingers into Pelta's retractor blade in order to grip the tissue better, and that such is well known in the art. In response thereto, Applicants note that claim 18 depends from claim 14 and, it is respectfully submitted, is allowable over Pelta for at least the same reasons provided above with regard to claim 14. Further, absent a teaching reference or the Examiner's indication that Official Notice is taken with regard to the feature indicated to be obvious, it is respectfully submitted that a *prima facie* case of obviousness has not been made with respect to claim 18.

In view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claim 18 under 35 U.S.C. Section 103(a) as being unpatentable over Pelta (U.S. Patent No. 4,971,037), as being clearly inappropriate.

Conclusion


Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-006CON6.

Respectfully submitted,

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